

## Division's Historic Resources Exhibit 10



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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

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Division Director

April 20, 2010

Chris R. McCourt  
Alton Coal Development, LLC  
463 North 100 West, Suite 1  
Cedar City, Utah 84720

Subject: Decision and Cultural Resource Protection Finding for Coal Hollow Mine Permit, Alton Coal Development, LLC, Coal Hollow, C/025/005

Dear Mr. McCourt:

This letter is to advise Alton Coal Development that the Division's October 19, 2009 permit decision regarding the proposed Coal Hollow Mine will be further conditioned to require the identification and protection of two additional cultural resource sites within the permit area. The Division appreciates ACD bringing to the Division's attention apparent oversights on the part of ACD and the Division that have resulted in these two cultural resource sites within the permit area not being included in our prior identification and findings.

The written findings required for approval of the permit application include R645-300-133.600, "[T]he Division has taken into account the effect of the proposed permitting action on properties listed on and eligible for listing on the national Register of Historic Places. This finding may be supported in part by inclusion of appropriate permit conditions or changes in the operation plan protecting historic resources, or a documented decision that the Division has determined that no additional protection measures are necessary." In order to make this finding, the Division will add a condition that ACD will provide for the protection of these resources either by acceptable mitigation as determined by the Division with the concurrence of the SHPO or modification of the mine plan to avoid these sites. The Division will immediately provide the SHPO with the surveys that support the identification of these two sites and seek its concurrence in the identification and determination of eligibility.

The provisions of R645-301-411.144 allow for the Division to require the ACD to protect historic or archeological properties listed on or eligible for listing through appropriate mitigation and treatment measures after the permit issuance provided the measures are completed before the properties are affected by any mining operation. Since the SHPO must concur in the Division's determination, a permit condition must include the obligation of ACD to avoid the site as a possible and necessary action to protect the sites.

Since the permit is now being challenged in an appeal before the Board, the Division intends to immediately advise the Board and the parties that the Division intends to add this condition to the permits terms.

If you have any question regarding this letter or our determination, please contact me at (801) 538-5320, or Daron Haddock at (801) 538-5325.

Sincerely,



Dana Dean  
Associate Director-Mining

DD/dd

Cc: Steve Alder, AG  
Mike Johnson, AG  
Denise Dragoo, Snell and Wilmer  
Price Field Office

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